



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 230615-0151; RTID 0648-XC711]

Pacific Halibut Fisheries of the West Coast; Management Measures for the 2023

Area 2A Pacific Halibut Directed Commercial Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS is implementing harvest specifications and management measures for the 2023 non-tribal directed commercial Pacific halibut fishery that operates south of Point Chehalis, WA (46°53.30' N lat.) in the International Pacific Halibut Commission's regulatory Area 2A off Washington, Oregon, and California. Specifically, this final rule establishes directed commercial fishing periods and fishing period catch limits by vessel size class for the 2023 fishing season. These actions are intended to conserve Pacific halibut and provide fishing opportunity where available.

DATES: This rule is effective on [*insert date of publication in the FEDERAL REGISTER*].

ADDRESSES: Additional information regarding this action may be obtained by contacting the Sustainable Fisheries Division, NMFS West Coast Region, 500 W. Ocean Blvd., Long Beach, CA, 90802. For information regarding all halibut fisheries and general regulations not contained in this rule, contact the International Pacific Halibut Commission, 2320 W. Commodore Way Suite 300, Seattle, WA 98199-1287.

FOR FURTHER INFORMATION CONTACT: Katie Davis, West Coast Region, NMFS, (323) 372-2126, katie.davis@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The Northern Pacific Halibut Act of 1982 (Halibut Act), 16 U.S.C. 773-773k, gives the Secretary of Commerce (Secretary) general responsibility for implementing the provisions of the Convention between Canada and the United States for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Halibut Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979). The Halibut Act requires that the Secretary shall adopt regulations as may be necessary to carry out the purposes and objectives of the Halibut Convention and Halibut Act. 16 U.S.C. 773c. The Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration (NOAA), on behalf of the International Pacific Halibut Commission (IPHC), publishes annual management measures governing the Pacific halibut fishery that have been recommended by the IPHC and accepted by the Secretary of State, with concurrence from the Secretary of Commerce. These management measures include coastwide and area-specific mortality limits (also known as allocations and subarea allocations), coastwide season dates, gear restrictions, Pacific halibut size limits for retention, and logbook requirements, among others. The IPHC apportions allocations for the Pacific halibut fishery among regulatory areas: Area 2A (Washington, Oregon, and California), Area 2B (British Columbia), Area 2C (Southeast Alaska), Area 3A (Central Gulf of Alaska), Area 3B (Western Gulf of Alaska), and Area 4 (subdivided into 5 areas, 4A through 4E, in the Bering Sea and Aleutian Islands of Western Alaska).

Additionally, as provided in the Halibut Act, the Regional Fishery Management Councils having authority for the geographic area concerned may develop, and the Secretary of Commerce may implement, regulations governing harvesting privileges among U.S. fishermen in U.S. waters that are in addition to, and not in conflict with,

approved IPHC regulations (16 U.S.C. 773c(c)). The Pacific Fishery Management Council (Council) has exercised this authority by developing a catch sharing plan guiding the allocation of halibut across the various sectors and management of fisheries for the IPHC's regulatory Area 2A. At its annual meeting held January 22–27, 2023, the IPHC adopted an Area 2A fishery constant exploitation yield (FCEY) of 1.52 million pounds (689.46 metric tons (mt)) of Pacific halibut. NMFS published this catch limit and fishery allocations in the Federal Register on March 7, 2023 (88 FR 14066), after acceptance by the Secretary of State, with concurrence from the Secretary of Commerce, in accordance with 50 CFR 300.62. The FCEY was derived from the total constant exploitation yield (TCEY) of 1.65 million pounds for Area 2A, which includes commercial discards and bycatch estimates calculated using a formula developed by the IPHC. Based on this FCEY for Area 2A and the allocation framework in the Council's catch sharing plan, the IPHC also adopted a non-tribal directed commercial fishing allocation of 257,819 pounds (116.94 mt).

On December 5, 2022, NMFS published a final rule that established NMFS' authority to issue permits for Area 2A halibut fisheries, as well as a regulatory framework for the area 2A directed commercial fishery (87 FR 74322). NMFS is implementing the following 2023 harvest specifications and management measures for the directed commercial fishery based on that regulatory framework.

2023 Directed Commercial Fishing Periods

Fishing periods are the time during the annual halibut season when directed commercial fishing for Pacific halibut is allowed, and may span multiple days. Through this final rule NMFS is establishing two fishing periods, both of which are 58 hours in length. The first fishing period begins on June 27, 2023, at 8 a.m. and closes on June 29, 2023, at 6 p.m. The second fishing period will occur 2 weeks later, beginning on July 11, 2023, at 8 a.m. and closing on July 13, 2023, at 6 p.m. Following these two fishing

periods, if the fishery has not attained nor is projected to have attained the directed commercial allocation, NMFS may determine that subsequent fishing period(s) are necessary to attain the allocation. Any additional fishing period(s) and applicable fishing period limits will be announced in the **Federal Register** through inseason action.

2023 Directed Commercial Vessel Limits

A fishing period limit, or vessel limit, is the maximum amount of Pacific halibut that may be retained and landed by a vessel during one fishing period. Each vessel may retain no more than the current fishing period limit of Pacific halibut for its vessel class, which is determined by vessel length (see Table 1). This final rule implements directed commercial fishing period limits based on the allocation for the directed commercial fishery in Area 2A and the number of permits issued by vessel size class. Vessel limits are determined by vessel size class based on the number and sizes of the vessels for which permits were issued, as well as historical participation, and are intended to ensure that the Area 2A directed commercial fishery does not exceed the directed commercial allocation, while also providing fair and equitable access across participants to an attainable amount of harvest. The 2023 Pacific halibut directed commercial fishery permit application deadline was February 14, 2023. NMFS received 154 applications across eight vessel size classes (A–H) and used that information in determining the vessel limits. If NMFS determines fishing period(s) in addition to those in this rule is warranted, NMFS will set the fishing period limits equal across all vessel classes. If NMFS determines that the directed commercial fishery has attained its annual allocation or is projected to attain its allocation if additional fishing was to be allowed, the Regional Administrator will take action to close the fishery.

2023 Non-tribal Directed Commercial Fishery Management Measures

The Area 2A non-tribal directed commercial fishery south of Point Chehalis, WA (46°53.30' N lat.), will open on June 27 at 8 a.m. and close on June 29 at 6 p.m. and will

open July 11 at 8 a.m. and close on July 13 at 6 p.m. The fishery may be adjusted inseason consistent with 50 CFR 300.63.

Table 1—Vessel Limits by Size Class for the 2023 First and Second Fishing Periods of the Area 2A Pacific Halibut Non-tribal Directed Commercial Fishery

Vessel class	Length range (feet)	Fishing period limit (pounds)
A	1 – 25	2,716
B	26 – 30	2,716
C	31 – 35	2,716
D	36 – 40	4,092
E	41 – 45	4,092
F	46 – 50	5,454
G	51 – 55	5,454
H	56+	6,136

NMFS published a proposed rule on April 14, 2023 (88 FR 22992), and received no public comments.

Classification

Regulations governing the U.S. fisheries for Pacific halibut are developed by the IPHC, the Council, the North Pacific Fishery Management Council, and the Secretary of Commerce. Section 5 of the Halibut Act (16 U.S.C. 773c(c)) allows the Regional Council, having authority for a particular geographical area, to develop regulations governing the allocation and catch of halibut in U.S. Convention waters as long as those regulations do not conflict with IPHC regulations.

This action is exempt from review under E.O. 12866.

NMFS finds good cause to waive the 30-day delay in the date of effectiveness and make the 2023 Area 2A directed commercial fishery specifications (i.e., fishing periods and vessel limits) in this rule effective in time for the start of the directed commercial

Pacific halibut fishery on June 27, 2023, pursuant to 5 U.S.C. 553(d)(3). The fishery specifications in this rule follow the established framework for annual specifications for the IPHC regulatory Area 2A directed commercial fishery at 50 CFR 300.63(e).

Additionally, the fishing periods and fishing period catch limits in this rule are consistent with how the fishery has been managed by the IPHC in prior years. This final rule specifies fishery management measures only for the 2023 directed commercial fishery and does not include changes to the codified regulations.

Delaying the effective date of the specifications would be contrary to the public interest. A delay in the effectiveness of these measures for 30 days would result in the fisheries not opening on their intended timelines and on the dates the affected public are expecting—the directed commercial fishery season dates and vessel limits are consistent with how this fishery has been managed and operated in recent years, the framework for which was established through a proposed (87 FR 44318; July 26, 2022) and final rulemaking (87 FR 74322; December 5, 2022), following multiple public meetings of the Council and the IPHC where public comments were accepted. If the commercial fisheries do not open on their intended timeline, there will likely be an opportunity cost for those commercial entities that anticipated these fishing dates, causing economic harm. A delay in the start of the fishing season may risk the ability to attain the directed commercial allocation, potentially affecting the ability for the fisheries to attain the overall Area 2A catch limit set by the IPHC.

Therefore, a delay in effectiveness of the management measures would likely cause economic harm to the commercial fisheries. As a result of the harm to the commercial fishery that could be caused by delaying the effectiveness of these management measures, NMFS finds good cause to waive the 30-day delay in the date of effectiveness and make the specifications effective upon publication in the **Federal Register**.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This action does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act. There are no relevant Federal rules that may duplicate, overlap, or conflict with this action.

Authority: 16 U.S.C. 773-773k

Dated: June 15, 2023.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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